

## REMARKS

Upon entry of the present amendment claims 1-5 and 7-12 are pending in the application. Claims 1, 4-5, 7, and 12 have been amended. Claims 2-3 and 11 have been canceled. Claims 13-19 have been added. No new matter has been introduced by this amendment. Reconsideration is requested in view of the following remarks.

1. **Disposition of Claims.**

Applicants respectfully submit that claim 6 was canceled in the preliminary amendment previously filed by Applicants. However, the Examiner lists claims 1-12 as pending in the instant Office Action. Correction is respectfully requested.

2. **Claim Amendment.**

Claims 2-3 and 11 have been canceled without prejudice.

Claims 5 and 7 have been amended for clarity.

Support for the amendment to the claims and for the new claims can be found at least in the Application as filed as follows.

Claims 1, 4, and 12:	page 4, lines 15-28.
Claim 13:	page 4, lines 24-25.
Claim 14:	page 4, lines 20-21.
Claim 15:	page 19, lines 1-14.
Claim 16:	page 22, lines 10-11.
Claim 17:	page 23, lines 18-19.
Claim 18:	page 18, lines 10-12.
Claim 19:	claim 1, and page 4, lines 15-28.

3. **Rejection of claims 1-5 and 7-12 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 6,168,865 To Koster et al., hereafter "Koster".**

Koster teaches a coating composition comprising one or more hydroxyl-containing, modified or nonmodified polyesters and one or more hydroxyl-reactive crosslinkers, characterized in that the coating composition comprises as binder a mixture of hydroxyl-containing polyesters (A1), modified epoxy resin esters (A2), and epoxy resin-modified alkyd resins (A3) (Koster, abstract.)

Applicants' independent claim 1 as currently amended is directed to a pigmented coating composition comprising one or more pigments, a water soluble, fatty acid modified epoxy ester resin, a fatty acid modified alkyd resin, or a mixture thereof, and a binder obtained by polymerizing (A) an ethylenically unsaturated monomer or a mixture of ethylenically unsaturated monomers in the presence of (B) a polyurethane resin.

To anticipate a claim under 35 U.S.C. § 102, a single source must contain all of the elements of the claim. *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q.2d 1766, 1768 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 1007 (1988).

Applicants respectfully submit that Koster does not anticipate Applicants' independent claims 1, 4, 12, and 19 because Koster does not teach all of the elements of the claims. Specifically, Koster does not teach a binder obtained by polymerizing an ethylenically unsaturated monomer in the presence of a polyurethane resin. Koster teaches a binder composition composed of elements A1-A3 as described above. At best, Koster teaches certain rheology-controlling additives that can be optionally present in an amount of 0-5 percent by weight. These additives include polyvinyl alcohol, poly(meth)acrylamide, poly(meth)acrylic acid, polyvinylpyrrolidone, styrene-maleic anhydride or ethylene-maleic anhydride copolymers and their derivatives, or else hydrophobically modified ethoxylated urethanes or polyacrylates (Koster, column 11, lines 11-25.) While Koster teaches the optional use of 0-5% by weight of these rheology modifiers, Koster does not teach a binder that comprises ethylenically unsaturated monomers polymerized in the presence of a polyurethane resin. Koster teaches only that ethoxylated urethanes are preferred rheology modifiers.

Thus, Applicants respectfully assert that the instant claims are patentable over Koster under 35 U.S.C. §102(b), because Koster does not teach each and every element of Applicants' independent claims. Specifically, Koster does not teach a binder obtained by polymerizing (A) an ethylenically unsaturated monomer or a mixture of ethylenically unsaturated monomers in the presence of (B) a polyurethane resin. Withdrawal of the rejection is respectfully requested.

### CONCLUSION

Applicants respectfully submit that the Application and pending claims are patentable in view of the foregoing amendments and/or remarks. A Notice of Allowance is respectfully requested. As always, the Examiner is encouraged to contact the Undersigned by telephone if direct conversation would be helpful.

Respectfully Submitted,

/MaryEGolota/  
Mary E. Golota  
Registration No. 36,814  
Cantor Colburn LLP  
(248) 524-2300

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#### CORRESPONDENCE ADDRESS ONLY

BASF CORPORATION  
1609 Biddle Avenue  
WYANDOTTE, MI 48192  
Customer No. 26922

MEG/IK